THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.8567 of 2006

Dated: 25.04.2006

Between:

Md. Sabir Ali, S/o Mahaboob Ali, Driver, R/o 4-2-61, Panje Sha, Old Boiwada, Nalgonda, Nalgonda District.

.... PETITIONER

AND

The Divisional Manager, APSRTC, Nalgonda Division, Nalgonda District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.8567 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of respondent No.2 in issuing the proceedings dated 07.06.1991, withholding the annual increment of the petitioner for a period of one year with cumulative effect, as illegal and arbitrary.

The petitioner is employed as a Driver in APSRTC. He was issued a charge sheet, dated 04.06.1990, alleging that he failed to start the Bus service “Nalgonda to Hyderabad” in time, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation denying the charges framed against him. Respondent No.2, without conducting any regular departmental enquiry and without affording any opportunity,

passed the impugned order imposing punishment of withholding the annual increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner preferred an appeal before respondent No.1, which was rejected, by order dated 25.11.1991. Hence, the present writ petition.

Heard the learned counsel for both the parties and perused the material available on record.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

It is an admitted fact that respondent No.2 imposed punishment of deferment of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The apex Court in "***Kulwanth Singh Gill's Case*** (1 supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment for a period of one year was imposed without conducting regular departmental enquiry violating the judgment of the apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondent No.2 to pass fresh orders. But, to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to respondent No.2 for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of annual increment without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 07.06.1991, passed by respondent No.2, imposing punishment of stoppage of annual increment for a period of one year with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect.

The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only. No costs.

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N.V. RAMANA, J.

Date: 25.04.2006

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